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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
TOLEDO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

Tronsen,	)	CV 3:08:148
Plaintiff,	)	[Pleading title]
vs.	)	MOTION FOR RECONSIDERATION
Toledo Lucas County Public Library,	)	J. CARR
Defendant	)	

Plaintiff moves for reconsideration of the court's ORDER Filed 2/26/2008, for the following reason(s):

The USSC case cited is not relevant to this matter. The case, U.S. v. Am. Library Ass'n, Inc. 539 U.S. 194, 206 (2003) was not concerned with an individual's freedom of expression; a reading of it reveals that it was centered around the interpretation and/or application of the Children's Internet Protection Act (CIPA), and availability of federal subsidies for internet connections.

Our case is not concerned with either.

The Gember decision was concerning with the (alleged) destruction of an infinitesimal small portion of the library collection, and that court (a District court) said that the plaintiff's freedom of expression rights were not violated by the destruction. Directly from that decision:

> [P]ublic libraries must have broad discretion to decide what material to provide to their patrons. Although they seek to provide a wide array of information, their goal has never been to provide "universal coverage." ... Instead, public libraries seek to provide materials "that would be of the greatest direct benefit or interest to the community." ... To this end, libraries collect only those materials deemed to have "requisite and appropriate quality."

Gember is far, far off the mark.

Plaintiff says with regard to the Kreimer case:

The Kreimer case (3rd circuit) is one where a District court ruled that certain library regulations were unconstitutional in upholding a library patron's access to the premises. Its

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similarities to our case appear to end there or close thereto. The defendant in our case has a different set of rules ('Code of Conduct'); Plaintiff will unquestionably show that: a) The Ohio court (in Lucas County) did a grossly inadequate protection of Plaintiff's rights in the previous instance, and b) that the rules for this instance are not and were not exempt from scrutiny; they must be considered in their own light, within the parameters of the separate and distinct milieu of their composition and application in light of the facts and circumstances of This Case, not of another case; the Kreimer decision is not valid for legal precedence here.

It appears that Kreimer was expelled (duration not mentioned) for conduct relating to his (lack of) personal hygiene; that is not an allegation (or even suggestion) of the defense here, nor is that for the most part, Plaintiff broke a specific rule in the library Code of Conduct... The Toledo library ordinarily provides small pieces of paper & pencils for patrons to make notes; in our case, it complains that a patron (Plaintiff) ACTUALLY USED THEIR OWN PAPER, WROTE HIS OWN NOTE, AND PASSED IT TO ANOTHER LIBRARY PATRON... Nothing like the Kreimer case. Nevertheless, the appellate court found that the facts of the case did not support Kreimer's complaint.

Plaintiff says that there is adequate guidance for this matter in previous decisions of the United States Supreme Court re First Amendment protections.

Further, Plaintiff says whether or not this Library is or constitutes a public forum or not has not and cannot be decided by other cases or other courts; the facts of the decisions, rules, and prohibitions applicable to other libraries may or may not apply in our case.

Plaintiff asks to be excused in that his previous Brief was tendered late by reason of the needs of Justice supersede any harm done in this regard.

Plaintiff alleges that justice was not done in the previous matter considered in the State court (Case No. 02006 1131), which was never allowed to proceed to trial, but was rather dismissed on the most tenuous reasons. Plaintiff requests that this District Court review the case in light of the Plaintiff's allegation of a (GROSS) failure to protect his first amendment rights.

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Plaintiff repeats his request that the Honorable Judge Carr recues himself from this matter.

Plaintiff repeats the allegations and claims of his ***BRIEF*** (memorandum) Supporting a Permanent Injunction filed previously in this matter, and includes them by reference. Plaintiff suggest that the standard of Virginia v. Black is the precedence for our case; that standard is communicating 'an intent to commit an act of unlawful violence to a particular individual or group of individuals;

From **Virginia v. Black; 538 U.S. 343 (2003)**:
b) The protections the First Amendment affords speech and expressive conduct are not absolute. This Court has long recognized that the government may regulate certain categories of expression consistent with the Constitution. See, e.g., Chaplinsky v. New Hampshire, 315 U.S. 568, 571—572. For example, the First Amendment permits a State to ban "true threats," e.g., Watts v. United States, 394 U.S. 705, 708 (per curiam), which encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals, see, e.g., id., at 708. The speaker need not actually intend to carry out the threat. Rather, a prohibition on true threats protects individuals from the fear of violence and the disruption that fear engenders, as well as from the possibility that the threatened violence will occur. R. A. V., supra, at 388. Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death. Respondents do not contest that some cross burnings fit within this meaning of intimidating speech, and rightly so. As the history of cross burning in this country shows, that act is often intimidating, intended to create a pervasive fear in victims that they are a target of violence. Pp. 11—14.

from **Schneider v. State 308 U.S. 147** (1939) is still valid:
"... one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place."

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from **Gibson v. Florida Legislative Investigation Committee 372 U.S. 539**

"The First and Fourteenth Amendment rights of **free speech** and **free** association are fundamental and highly prized, and 'need breathing space to survive.' N.A.A.C.P. v. Button, 371 U.S. 415, 433, 83 S.Ct. 328, 338, 9 L.Ed.2d 405. 'Freedoms such as these are protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference.' Bates v. Little Rock, supra, 361 U.S., at 523, 80 S.Ct., at 416. And, as declared in N.A.A.C.P. v. Alabama, supra, 357 U.S., at 462, 78 S.Ct., at 1171,

Hill v. Colorado 530 U.S. 703 Gives us valuable insight as to requirements (standards) that a law must attain to be upheld:

"The right to free speech, of course, includes the right to attempt to persuade others to change their views, and may not be curtailed simply because the speaker's message may be offensive to his audience. But the protection afforded to offensive messages does not always embrace offensive speech that is so intrusive that the unwilling audience cannot avoid it. *Frisby v. Schultz,* 487 U.S. 474, 487, 108 S.Ct. 2495, 101 L.Ed.2d 420 (1988). Indeed, "[i]t may not be the content of the speech, as much as the deliberate 'verbal or visual assault,' that justifies proscription." *Erznoznik v. Jacksonville,* 422 U.S. 205, 210-211, n. 6, 95 S.Ct. 2268, 45 L.Ed.2d 125 (1975) (citation and brackets omitted). Even in a public forum, one of the reasons we tolerate a protester's right to wear a jacket expressing his opposition to government policy in vulgar language is because offended viewers can "effectively avoid further bombardment of their sensibilities simply by averting their eyes." *Cohen v. California,* 403 U.S. 15, 21, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971)." (emphasis added)

followed by:

"The Colorado statute passes that test for three independent reasons.

First, it is not a "regulation of speech." Rather, it is a regulation of the places where some speech may occur.

Second, it was not adopted "because of disagreement with the message it conveys." This conclusion is supported not just by the Colorado courts' interpretation of legislative history, but more importantly by the State Supreme Court's unequivocal holding that the statute's "restrictions apply equally to all demonstrators, regardless of viewpoint, and the statutory language makes no reference to the content of the speech." [FN27]

Third, the State's interests in protecting ***720*** access and privacy, and providing the police

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with clear guidelines, are unrelated to the content of the demonstrators' speech. As we have repeatedly explained, government regulation of expressive activity is "content neutral" if it is justified without reference to the content of regulated speech. See *ibid.* and cases cited."

from Whitney v. California 274 U.S. 357

"Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears. To justify suppression of free speech there must be reasonable ground to fear that serious evil will result if free speech is practiced. There must be reasonable ground to believe that the danger apprehended is imminent. There must be reasonable ground to believe that the evil to be prevented is a serious one."

Dated this [**Date**]

[signature]
3/7/08

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UNITED STATES DISTRICT COURT
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TRONSEN

v. 3:08 CV 148

TOLEDO LUCAS-COUNTY PUBLIC LIBRARY

certificate of service

Plaintiff served his MOTION FOR RECONSIDERATION on the court and defendant in person on March 7th, 2008